

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Hispanic surnames that is provided by the census
2 department.

3 SEN. DAVIS: I'm sure you understand that
4 one of the sensitive issues that will arise as a
5 consequence of this legislation will be a question as to
6 whether the implementation of this law creates a
7 disproportionate impact on minorities, on seniors, on
8 the disabled, on women. How will the Secretary of
9 State's Office work to be able to answer those questions
10 when they are asked if we currently don't track that
11 data? And is there an intention to track it going
12 forward?

13 MS. MCGEEHAN: When we changed the voter
14 registration application in '94, '95, due to the
15 National Voter Registration Act, there was a long
16 discussion regarding this issue of whether the state
17 application should request a voter's race. The
18 determination at that time, based on feedback from all
19 the stakeholders, was not to do it because the thought
20 was that might be intimidating to a minority voter, "Why
21 are you asking, you know, what my ethnicity is? It
22 doesn't impact whether I can register or not."

23 We can revisit that issue because in order
24 to provide data, you know, if the legislature wants data
25 like that from the Secretary of State's Office, we have

15-28

15-29

462

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 to have some way to collect it. So we could revisit
2 putting that question or adding that as a question to
3 the voter registration application. I'd be happy to
4 visit on ways where we could try and collect that, but
5 right now we would not have the tools that we would need
6 to be able to collect that data.

7 SEN. DAVIS: It seems rather important as
8 implementation of this law advances that that
9 information be made available for the Justice Department
10 review as well as any judicial review that might occur
11 in terms of the impact of the implementation of the law.

12 I believe that's all the questions I have
13 for you. Thank you so much.

14 MS. MCGEEHAN: Thank you.

15 CHAIRMAN DUNCAN: The Chair recognizes
16 Senator West.

17 SEN. WEST: Thank you very much,
18 Mr. Chairman. Many of the questions Senator Davis has
19 already asked, but have you had a chance to look at the
20 bill as introduced?

21 MS. MCGEEHAN: Yes.

22 SEN. WEST: Okay. Do you happen to have
23 it there in front of you?

24 MS. MCGEEHAN: Yes, I do.

25 SEN. WEST: Okay. Great. Before I get

KENNEDY REPORTING SERVICE, INC.

512.474.2233

TX_00000818

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 into it, does this bill provide you any rulemaking
2 authority?

3 MS. MCGEEHAN: No.

4 SEN. WEST: Okay. So in interpreting
5 the -- let me back up. Are you often called upon by
6 county registrars to answer questions concerning issues
7 that arise in local counties?

8 MS. MCGEEHAN: Yes.

9 SEN. WEST: How do you normally decide
10 those questions? Do you just look at the black and
11 white law? Do you issue opinions? How is that --
12 what's that process?

13 MS. MCGEEHAN: We issue opinions in a
14 couple of different ways. We have a toll-free number.
15 One is dedicated just for county officials. So if it's
16 a fairly straightforward, simple question, we give a
17 quick answer over the phone. If it's a -- if it's a
18 less involved question, we might get an email. We'll
19 give a response via email. If it's something that's
20 hard or we're really interpreting several different laws
21 or it's a new law and we feel like it has statewide
22 impact, we want to make sure that everyone is operating
23 under the same understanding, we'll issue an advisory.

24 SEN. WEST: Okay. And so an advisory or
25 just depending upon the circumstances maybe an email

KENNEDY REPORTING SERVICE, INC.
512.474.2233

TX_00000819

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 opinion or something like that?

2 MS. MCGEEHAN: Well, advisories are
3 usually a little more -- it's like the most formal that
4 we do.

5 SEN. WEST: Right.

6 MS. MCGEEHAN: Yeah. Okay.

7 SEN. WEST: All right. Let me ask you to
8 go to Page 4 of the bill.

9 MS. MCGEEHAN: Okay. Can you tell me the
10 section? Because I think I have a different format.

11 SEN. WEST: Okay. It's Section 7, and
12 Section 7(c) and (d).

13 MS. MCGEEHAN: Okay.

14 SEN. DAVIS: Let me know when you get
15 there.

16 MS. MCGEEHAN: Yes.

17 SEN. WEST: Okay. It's my understanding
18 that the election officer that's being referred to in
19 Section (d) is -- is the individual working at the poll.
20 Is that right?

21 MS. MCGEEHAN: Yes.

22 SEN. WEST: Okay. That person will be
23 called upon in Section (d) to determine if the voter's
24 name is on the precinct list of registered voters, and
25 the voter's identity can be verified from the

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 documentation presented. Is that correct?

2 MS. MCGEEHAN: Yes.

3 SEN. WEST: Okay. In advising on that,
4 will that be a strict interpretation? Let me -- this is
5 what I mean. I think that some of the hypotheticals
6 that were provided by Senator Davis may be illustrative
7 of what I'm asking. My last name is West, W-e-s-t. And
8 say that there's a typographical error where my name is
9 spelled W-e-s on the voters' roll, precinct list, and
10 then my -- but my identity I'm using my driver's license
11 and it has "t" on it. How does a poll -- an election
12 officer in that situation resolve that problem?

13 MS. MCGEEHAN: That's a good question, and
14 I don't think the bill necessarily defines what
15 verification --

16 SEN. WEST: I know. Senator Fraser said
17 I'd have to ask the Secretary of State that question.
18 That's why I'm asking you that question.

19 MS. MCGEEHAN: I think -- you know, based
20 on the way the bill is written now and if we had to
21 develop training materials for the poll workers on how
22 to implement this, we would look to the best practices
23 of the states that have implemented. I heard Indiana
24 testify earlier today that they have written some
25 guidelines. We'd look to that and try and incorporate

15-33

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 the best practices on reasonable methods to verify the
2 ID document against the list of registered voters.

3 SEN. WEST: Okay. But you would agree
4 with me that in interpreting Section (c) and (d) without
5 some sort of guidance would lend itself to a great deal
6 of subjectivity; thus inconsistent application
7 throughout the state?

8 MS. MCGEEHAN: It could, yes.

9 SEN. WEST: Okay. As it relates to --
10 let's see. What page is it on? The next page, which
11 will be (h), it's in the same section.

12 MS. MCGEEHAN: Okay.

13 SEN. WEST: Would you read Section (h) and
14 tell me how you interpret that as the chief
15 administrator of the election laws in the state of Texas
16 next to, needless to say, Secretary of State?

17 MS. MCGEEHAN: (h) reads, "The
18 requirements for identification prescribed by Subsection
19 (b) do not apply to a voter who: (1) presents the
20 voter's voter registration certificate on offering to
21 vote; and (2) was 70 years of age or older on January 1,
22 2012, as indicated by the date of birth on the voter's
23 voter registration certificate."

24 The way I had -- until earlier this
25 afternoon when Senator Ellis asked the question, I had

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 assumed that anybody that is 70 years of age or older
2 would not have to provide the photo ID. I think the
3 wording is less than perfect. I think that's the
4 intent, and I heard Senator Fraser, I think, answer that
5 his intent is it would apply. You know, even if a
6 person became 70 after January 1, 2012, they could still
7 take advantage of this exception.

8 SEN. WEST: Okay. But would it be your
9 suggestion that we need to reword that language to make
10 certain that whether you're there or someone else -- I
11 understand that you're here and you heard the
12 discussion, but if for some reason you're not in the
13 same position you're in right now, there's going to be
14 someone else, and they won't have -- they will not have
15 had the benefit of this discussion. So, therefore, do
16 you think it would be advisory to -- advisory to reword
17 that to make certain it's perfectly clear?

18 MS. MCGEEHAN: I think so. If people are
19 reading it inconsistent, it would probably help it if it
20 were.

21 SEN. WEST: Okay. Now, a couple of other
22 questions. As it relates to the counties, it's my
23 understanding that you -- that your agency and maybe
24 either yourself or someone working for you put together
25 the fiscal note. Is that correct?

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 MS. MCGEEHAN: Yes. Our agency put it --
2 I helped.

3 SEN. WEST: Okay. Did someone under your
4 supervision contact local governments to determine the
5 impact, the fiscal impact, that implementation of this
6 will have?

7 MS. MCGEEHAN: No, we did not.

8 SEN. WEST: That was done by someone else?

9 MS. MCGEEHAN: I think LBB does that. We
10 just -- we just --

11 SEN. WEST: Provided the information?

12 MS. MCGEEHAN: Yeah. Right.

13 SEN. WEST: And based on your experience
14 when these types of changes -- let me back up.

15 How much experience have you had in this
16 particular area, that is, the election laws, in
17 administration of election laws?

18 MS. MCGEEHAN: I have been working in the
19 elections division for 21 years.

20 SEN. WEST: So you've had a little
21 experience, huh?

22 MS. MCGEEHAN: Yes.

23 SEN. WEST: Okay. All right. As it
24 relates to when changes are made in state law of this
25 nature, is there an impact, a fiscal impact, on local

CONSIDERATION OF SENATE BILL 14 1/25/2011

1 units of governments when they have to make changes to
2 comply with these types of changes or laws that are
3 being suggested?

4 MS. MCGEEHAN: I think it really depends
5 on what the change is. You know, if there's a new
6 mandate for a county or if the county has to do
7 something different, then obviously there would be a
8 fiscal impact.

9 SEN. WEST: Well, will -- and, again,
10 drawing on your expertise, will counties have to do
11 something different to implement this particular law?

12 MS. MCGEEHAN: They will have to -- they
13 are going to have to post information on their website
14 notifying the public what the new photo ID requirements
15 are.

16 SEN. WEST: Right.

17 MS. MCGEEHAN: When they issue voter
18 registration certificates, they are going to have to
19 mail out -- which they have to mail out every two years
20 under current law. The new certificates will have new
21 language, but -- informing voters of the voter ID
22 requirements, but that should be cost neutral because
23 they are already mailing out the voter registration
24 certificates.

25 The piece that I think might have a fiscal